

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHANTELL GOSZTYLA,

Plaintiff,

v.

KATHLEEN ALLISON,

Defendant.

Case No. 1:22-cv-00763-JLT-HBK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. 14)

The Magistrate Judge filed Findings and Recommendations, recommending this action be dismissed because Plaintiff failed to state a claim. (Doc. 14.) Plaintiff filed objections arguing the Defendant did not offer any post-deprivation remedy, which were, essentially, the same arguments made in her first amended complaint. (Doc. 15.)

Because the state of California provides Plaintiff with a post-deprivation remedy for her claimed loss, Plaintiff cannot prevail on her Fifth Amendment due process claim which stems from the confiscation of her JPay tablet. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Zinermon v. Burch*, 494 U.S. 113, 129-32 (1990). As the magistrate judge informed Plaintiff in the Findings and Recommendations and in the screening order, Plaintiff must pursue the return of her tablet pursuant to the California Tort Claims Act. *Barnett v. Centoni*, 31 F.3d 813, 816-17 (9th Cir. 1994) (citing Cal. Gov't Code §§ 810-895). Furthermore, Plaintiff does not have a fundamental right to possess a particular tablet. *See Atencio v. Allison*, 2021 WL 2982917, at *4 (E.D. Cal. Jul.

1 15, 2021) (“Plaintiff cannot allege a fundamental right to a particular type of electronic device.”)
2 *findings and recommendation adopted by* 2021 WL 4803970 (E.D. Cal. Oct. 14, 2021); *Cerniglia v.*
3 *Price*, 2017 WL 4865452, at *2-4 (E.D. Cal. Oct. 27, 2017) (finding that a civil detainee did not have
4 a constitutionally protected interest in his laptop which officials confiscated stating, “[n]o Court has
5 found that prisoners have a connotational right to possess personnel computers or items that are
6 similar to personal computers which are capable of accessing the internet in their cells.”) (citations
7 omitted).

8 According to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this
9 case. Having carefully reviewed the entire file, the Court finds the Findings and
10 Recommendations to be supported by the record and by proper analysis. Thus, the Court

11 **ORDERS:**

12 1. The Findings and Recommendations, filed on August 21, 2023 (Doc. 14), are

13 **ADOPTED IN FULL.**

14 2. The Clerk of Court shall terminate any pending motions, close this case, and enter
15 judgment against plaintiff.

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17 IT IS SO ORDERED.

18 Dated: **September 7, 2023**

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UNITED STATES DISTRICT JUDGE